

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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Date:

November 07, 2007

Legend

Company =

Entity A =

Entity B =

Entity C =

Entity D =

Entity E =

Entity F =

Entity G =

Entity H =

Entity I =

Entity J =

Entity K =

Individual A =

Individual B =

Individual C =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

State =

a =

b =

c =

d =

e =

f =

g =

h =

i =

i =

k =

l =

m =

n =

o =

p =

q =

r =

s =

t =

u =

v =

w =

x =

y =

z =

aa =

bb =

cc =

dd =

ee =

ff =

gg =

hh =

ii =

jj =

kk =

ll =

mm =

nn =

oo =

Dear :

This letter responds to your letter dated July 16, 2007, requesting rulings regarding § 382 of the Internal Revenue Code. The relevant information provided in that letter and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

Summary of Facts

Company is the common parent of an affiliated group of corporations filing a consolidated return. Company is also a loss corporation within the meaning of § 382. Between Date 1 and Date 5 (the "Relevant Period"), Company had issued and outstanding a single class of stock, which was publicly-traded common stock. Throughout the Relevant Period, approximately a shares of stock were outstanding.

In identifying its 5-percent shareholders during the Relevant Period, Company reviewed SEC Schedules 13G applicable to the Company common stock. During each

year of the Relevant Period, Filing 1 and Filing 2 each reported that the reporting persons on its respective Schedules 13G held greater than 5 percent of Company common stock.

The reporting persons of Filing 1 for Date 1 were Entity A, an investment manager, and Entity B, a limited liability company. The reporting persons of Filing 1 for Date 2, Date 4, and Date 5 were Entity A; Entity B; and Individual A, the CEO of Entity A and Entity B. Entity A was an investment manager to Entity F, Entity G, Entity H, Entity I, Entity J, and Entity K (the "Entity A Clients"). Entity B was a general partner of Entity F, Entity G, Entity H, and Entity I. Entity B also served as sponsor to Entity J and Entity K. Based on information provided in the filings, in the aggregate, Entity B did not directly or indirectly own 5 percent or more of Company common stock.

Filing 1 of Date 1 reported that each of Entity A and Entity B had shared voting power over all shares owned by the Entity A Clients (b shares or c percent). Such filing reported that Entity F owned d shares, Entity G owned e shares, Entity J owned f shares, and Entity K owned g shares. As of Filing 1 of Date 1, the entities of which Entity B was a general partner owned a total of h shares (i percent), which was less than 5 percent. Filing 1 of Date 2 reported that each of Entity A, Entity B, and Individual A had shared voting power over all shares owned by the Entity A Clients (j shares or k percent). Such filing reported that Entity F owned l shares, Entity G owned m shares, Entity H owned n shares, Entity I owned o shares, Entity J owned p shares, and Entity K owned q shares. As of Filing 1 of Date 2, the entities of which Entity B was a general partner owned a total of r shares (s percent), which was less than 5 percent. Filing 1 of Date 4 reported that each of Entity A, Entity B, and Individual A had shared voting power over all shares owned by the Entity A Clients (t shares or u percent). Such filing reported that Entity F owned v shares, Entity G owned w shares, Entity H owned x shares, Entity I owned y shares, Entity J owned z shares, and Entity K owned aa shares. As of Filing 1 of Date 4, the entities of which Entity B was a general partner owned a total of bb shares (cc percent), which was less than 5 percent. In Filing 1 of Date 5, the reporting persons reported complete termination of the economic ownership interest by the Entity A Clients.

The reporting persons of Filing 2 for Date 3 and Date 4 were Entity C, an investment manager; Entity D, a limited partnership; and Entity E, a corporation. The reporting persons of Filing 2 for Date 5 were Entity C; Individual B, an officer of Entity C; and Individual C, an officer of Entity C. Entity C was an investment manager to Entity D and Entity E (the "Entity C Clients"). Filing 2 of Date 5 reported that Entity C also served as a general partner to the Entity D. Based on information provided in the filings, in the aggregate, Entity C did not directly or indirectly own 5 percent or more of Company common stock.

Filing 2 of Date 3 reported that Entity C had shared voting control over all shares owned by the Entity C Clients (dd shares or ee percent). Such filing reported that Entity

D and Entity E were economic owners of ff shares (gg percent) and hh shares (ii percent), respectively, each of which was less than 5 percent. Filing 2 of Date 4 reported that Entity C had shared voting control over all shares owned by the Entity C Clients (jj shares or kk percent). Such filing reported that Entity D and Entity E were economic owners of ll shares (mm percent) and nn shares (oo percent), respectively, each of which was less than 5 percent. Filing 1 of Date 5 reported complete termination of the economic ownership interest by the Entity C Clients.

Entity A and Entity C did not have the right to receive dividends or the right to proceeds from the sale of Company stock. Entity B did not have the right to receive dividends or the right to proceeds from the sale of Company stock, except to the extent that Entity B was the direct or indirect economic owner of such shares (which represent less than 5 percent). Entity A and Entity B, on behalf of the Entity A Clients, and Entity C, on behalf of the Entity C Clients, had the power to vote Company common stock, and acquire or dispose of shares of Company common stock. Entities A through K were unrelated third parties with respect to Company.

No Entity A Client or Entity C Client filed a separate Schedule 13D or 13G that reports ownership of shares representing in the aggregate more than 5 percent of the Company common stock. In their respective Schedules 13G, each reporting person reported that it did not acquire any Company stock for the purpose of changing or influencing the control of Company.

Representations

Company makes the following representations:

- (a) The common stock of Company was publicly traded during the Relevant Period.
- (b) Company was a loss corporation as defined in § 382(k)(1) during the Relevant Period.

Company makes the following representations based on Schedules 13G filed with the SEC during the Relevant Period:

- (c) Each of Entity A and Entity C was an investment manager to its respective clients.
- (d) Neither Entity A nor Entity C was entitled to receive dividends declared and paid on the stock of Company or receive proceeds from the sale of Company common stock that was the subject of its respective Schedule 13G filings.

(e) None of Entity A, Entity B, Entity C, Individual A, Individual B, and Individual C was the economic owner of 5 percent or more (by value) of Company common stock (through application of the attribution rules of § 318 as modified by § 382(l)).

(f) Each of Entity A and Entity C had the authority, on behalf of its respective clients, to vote Company common stock, acquire or dispose of shares of Company common stock and file Schedules 13D or 13G with respect to Company common stock held by its clients.

(g) Entity B had the authority, on behalf of the Entity A Clients, to vote Company common stock, acquire or dispose of shares of Company common stock and file Schedules 13D or 13G with respect to Company common stock.

(h) Company has no knowledge of: (1) the existence of any group of persons who had a formal or informal understanding among themselves to make a coordinated acquisition of Company common stock using investments made through Entity A or Entity A Clients; (2) any SEC filings affirming that Entity A Clients should be treated as a group; (3) an entity or individual (through application of the attribution rules of § 318 as modified by § 382(l)) that owned 5 percent or more (by value) of Company common stock when such individual or entity's direct ownership in Company common stock is combined with its ownership of Company common stock acquired through Entity A; or (4) any activities performed by Entity A that would be outside the scope of an investment manager.

(i) Company has no knowledge of: (1) the existence of any group of persons who had a formal or informal understanding among themselves to make a coordinated acquisition of Company common stock using investments made through Entity C or Entity C Clients; (2) any SEC filings affirming that Entity C Clients should be treated as a group; (3) an entity or individual (through application of the attribution rules of § 318 as modified by § 382(l)) that owned 5 percent or more (by value) of Company common stock when such individual or entity's direct ownership in Company common stock is combined with its ownership of Company common stock acquired through Entity C; or (4) any activities performed by Entity C that would be outside the scope of an investment manager.

(j) Beyond the information set forth above, the management of Company has no actual knowledge relating to the ownership of Company common stock that is the subject of the Schedule 13G filings made by Entity A, Entity B, Entity C, Individual A, Individual B, and/or Individual C.

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows:

(1) An individual or entity that has the right to the dividends and the right to the proceeds from the sale of stock ("Economic Ownership") is the owner of the stock for purposes of § 382 ("Economic Owner"). Each of Entity A and Entity C has the power on behalf of its clients to vote and/or dispose of Company common stock ("Reporting Ownership"), but does not have Economic Ownership of such stock. Entity B has Reporting Ownership on behalf of Entity A Clients to vote and/or dispose of Company common stock in which Entity B has no Economic Ownership. For § 382 purposes, Entity A, Entity B, or Entity C is not the owner of any share of Company common stock to which it does not have the right to dividends or the proceeds of sale.

(2) Unless Company has actual knowledge to the contrary, Company can rely on the existence or absence of Schedule 13D or 13G to identify all persons who directly own 5 percent or more of Company common stock. See § 1.382-2T(k)(1)(i).

(3) If an investment manager files a Schedule 13D or 13G that reports Reporting Ownership on behalf of two or more Economic Owners of shares representing in the aggregate more than 5 percent of Company common stock, and the Economic Owners do not file a Schedule 13D or 13G that affirms the existence of a group, Company can rely on the absence of a Schedule 13D or 13G by the Economic Owners to determine that the Economic Owners are not members of a group that constitutes an entity (within the meaning of § 1.382-3(a)(1)(i)) unless Company has actual knowledge that the Economic Owners constitute an entity. See § 1.382-3(a)(1)(i), § 1.382-2T(k)(1)(i).

(4) The Entity A Clients collectively are not an entity within the meaning of § 1.382-3(a)(1)(i).

(5) The Entity C Clients collectively are not an entity within the meaning of § 1.382-3(a)(1)(i).

Caveats

We express no opinion on the tax effect of any transaction or item discussed or referenced in this ruling letter under any other provision of the Internal Revenue Code and regulations, or the tax effect of any condition existing at the time of, or effect resulting from, the facts and circumstances herein described that are not specifically covered by the rulings set forth above.

Procedural Statements

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

A copy of this ruling letter should be attached to the federal income tax return of each taxpayer involved for the taxable year in which the transactions covered by this ruling letter are completed. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the ruling letter.

Under the power of attorney on file in this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Marie C. Milnes-Vasquez
Senior Technical Reviewer, Branch 4
Office of Associate Chief Counsel (Corporate)